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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,388	08/06/2003	Kern Jordan	JORDAN	1199

545 7590 03/22/2005

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/635,388	JORDAN, KERN	
	Examiner	Art Unit	
	Dmitry Suhol	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8, 10-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, there is no antecedent basis for "said motivational recordings".

Regarding claims 10 and 13, the claims incorporate structure of an "extendable measuring member" which appears to be member 42 or 242 described in applicants specification, however applicants specification does not appear to incorporate an "extendable measuring member position detector". In this case the examiner assumes that an "extendable measuring member position detector" is merely a sensor or some type, however the disclosure of such should be included in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 3714

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Wood et al '413. Wood discloses an educational basketball game comprising all of the claimed elements including with reference to claim 1, a support base (24), a pole having an upper and lower end with the lower end mounted in the support base and extending upwardly from the base (pole 22) and supporting a backboard (20) on its upper end, a hoop (12) mounted on the backboard and oriented to receive a ball (28), a first score indicating device comprising numerical indicating devices (display 40, and associated LEDs), a second score indicating device comprising a plurality of achievement level indicating devices having generally known quality attributes (lights 44), a goal detecting device (switch 16), electronic logic circuitry responsive to the goal detecting device (figure 2). The pole being variable in height, as required by claim 2, is shown in figure 4B. Numerical indicating devices being alphanumeric displays, as required by claim 3, are shown as the LEDs of display 40 and described throughout the specification in reference to the ABC and 123 mode of operation. Motivational recording varying in response to players successes, as required by claim 8, are described in paragraph 0023 and throughout the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3714

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor '724 in view of Blackwell '284 and Matherne et al '517. Taylor discloses a basketball game containing some of the elements of the claims including with reference to claim 1, a backboard (12), a hoop mounted on the backboard and oriented to receive a ball (figure 3, rim 14), a score indicating device comprising a plurality of achievement level indicating devices having generally known quality attributes (lights 50 the function and control of which is described at col. 4, lines 3-59), a goal detecting device (sensors 24), electronic logic circuitry responsive to the goal detecting device (cols. 4-5, lines 30+ and 1-7, respectively). Quality attributes being team names and/or team logos, as required by claim 4, are described in col. 4, lines 7-12. A shot detector comprising a switch sensitive to vibration, as required by claim 5, is shown as sensors 20 and 22 described at col. 3, lines 40-61. Flashing lights (adjacent the hoop as required by claim 9), as required by claim 6, are shown as lights 52 whose function is described in col. 4, lines 60+.

Taylor fails to teach a support base as required by claim 1, a (adjustable as required by claim 2) pole having an upper and lower end with the lower end mounted in the support base and extending upwardly from the base and supporting a backboard on its upper end as required by claim 1, and a first score indicating device comprising numerical indicating devices (alphanumeric displays as required by claim 3) as required by claim 1. However, Blackwell teaches that it is known to mount a backboard (20) on

Art Unit: 3714

an upper end of an adjustable pole (figure 1) where the lower end of the pole is mounted in a support base (14), while Matherne teaches that is know to provide a goal responsive alphanumeric score indicating device (figure 3) with a basketball backboard (figure 1). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention to have mounted the backboard of Taylor on an upper end of an adjustable pole having a lower end of the pole mounted in a support base for the purpose of providing an adjustable basketball goal that can be operated safely by both children and adults so that its height may be adjusted to a users needs. It would have further obvious to include a goal responsive numerical score indicating device having an alphanumeric display with the basketball backboard of Taylor for the purpose of displaying a game score.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al '413. Wood discloses all the claimed elements, as stated above, and further including a speaker coupled to the electronic circuitry (figure 2, speaker 38) and housed in the support base (figure 4A and paragraph 0023) where the speaker plays cheers and motivational recordings (page 3, end of paragraph 0023) as required by claim 7.

Although Wood clearly teaches a speaker, Wood fails to explicitly teach speakers. However, it would have been obvious to incorporate more than one speaker in the device of Wood for the purpose of better sound quality and sound direction dissemination, especially since the examiner takes official notice that such speaker construction (e.g. plurality of speakers) is well known in the art.

Allowable Subject Matter

Claims 10 and 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action while incorporating ALL of the currently claimed elements.

Claims 11-12 and 14-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

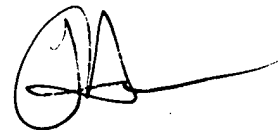
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ds

A handwritten signature in black ink, consisting of a stylized 'J' and 'H' followed by a horizontal line.

JESSICA HARRISON
PRIMARY EXAMINER